IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

Case No. .**1:25-cv-01224-TWP-CSW**

ELBERT COLEMAN

Judge Tanya Walton Pratt

Plaintiff,

V.

Removed from Marion County Superior Court
Case No. **49D04-2504-CT-017424**

COINBASE INC.,

Defendants,

> **FILED**
>
> **06/20/2025**
>
> **U.S. DISTRICT COURT**
> **SOUTHERN DISTRICT OF INDIANA**
> **Kristine L. Seufert, Clerk**

Plaintiff, Elbert Coleman, files this: **MOTION :**

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PLAINTIFF'S MOTION TO REMAND TO STATE COURT AND OBJECTION TO REMOVAL

Plaintiff Elbert Coleman respectfully moves this Honorable Court to remand this action back to Marion Superior Court pursuant to **28 U.S.C. § 1447(c)** and in support states the following:

I. INTRODUCTION

Coinbase's attempted removal is **procedurally and jurisdictionally defective**, violates the removal statutes' strict construction, and disregards multiple controlling authorities, including **Indiana Trial Rules**, **federal due process**, and **United States Supreme Court precedent** on timely and proper service.

Coinbase improperly removed this case **without ever being served**, in direct contradiction of **28 U.S.C. § 1446(b)** and settled Seventh Circuit precedent that conditions removal jurisdiction on formal service.

II. LEGAL STANDARD: REMOVAL IS NOT PROPER UNTIL DEFENDANT IS SERVED

Under **28 U.S.C. § 1446(b)(1)**, removal is proper **"within 30 days after the defendant receives *through service or otherwise* a copy of the initial pleading."**

But in **Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc., 526 U.S. 344, 347–48 (1999)**, the **U.S. Supreme Court** held:

"An individual or entity named as a defendant is not obliged to engage in litigation unless notified of the action, and brought under a court's authority, by formal process."

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Accordingly, **the 30-day clock for removal does not begin until proper service has occurred** under state law. Since Coinbase admits in its own removal notice (¶ 8) that it was **not served**, the removal is premature, and this Court lacks jurisdiction.

The **Seventh Circuit** has repeatedly held the same. See:

- **Copley v. Wyeth, Inc., 2007 WL 3342528 (S.D. Ind. Nov. 7, 2007):** "Removal was improper because Defendants were not formally served."

- **Barrett v. Johnson & Johnson, 2014 WL 4169114 (S.D. Ind. Aug. 20, 2014):** "Without formal service, the clock for removal does not begin to run."

- **Phoenix Container, L.P. v. Sokoloff, 235 F.3d 352 (7th Cir. 2000):** "The language 'through service or otherwise' must be interpreted to require proper service.

III. DEFENDANT'S ATTEMPT TO REMOVE BASED ON SELF-DISCOVERY VIOLATES DUE PROCESS AND INDIANA PROCEDURE

Coinbase's removal, based solely on "discovering the complaint online" (Notice ¶ 8), **violates due process** and Indiana service rules. Indiana Trial Rule 4 requires **certified mail, personal service, or court-approved publication** to invoke jurisdiction.

The state court already denied Plaintiff's default motion for lack of confirmed service. This means **Coinbase is not yet under the court's jurisdiction**, and thus **cannot remove**.

Federal courts are clear: **self-notice is not sufficient**. See:

- **Moore v. North America Sports, Inc., 623 F.3d 1325 (11th Cir. 2010):** "Defendant cannot remove based on its own investigation absent service."

- **Pritchett v. Office Depot, Inc., 420 F.3d 1090 (10th Cir. 2005):** "Allowing pre-service removal violates the strict construction of removal statutes."

IV. NO FEDERAL QUESTION JURISDICTION EXISTS OVER EFTA CLAIMS REMOVABLE IN EQUITY

Even assuming removal jurisdiction was timely, Coinbase's reliance on 28 U.S.C. § 1331 (federal question) is misplaced. While EFTA provides a federal cause of action, **Congress did not preempt state court jurisdiction** for such claims.

- See **15 U.S.C. § 1693m(g)**: "Any action under this section may be brought in any appropriate United States district court or in any other court of competent jurisdiction."

This means Plaintiff **had the right to choose Indiana court** for his EFTA and Regulation E violations. Removal based solely on a federal statute is **not mandatory**, and in this case, Plaintiff made a deliberate and proper choice of forum.

V. COMPLETE DIVERSITY IS IRRELEVANT WHEN REMOVAL IS DEFECTIVE UNDER § 1446

Coinbase claims complete diversity under 28 U.S.C. § 1332—but diversity jurisdiction only matters **after proper removal procedure is followed.** Courts routinely remand improperly removed actions, even where diversity exists. See:

- **Benson v. SI Handling Systems, Inc., 188 F.3d 780 (7th Cir. 1999)**: "Improper removal must be remedied by remand even if diversity exists."

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VI. PRAYER FOR RELIEF

For the reasons above, Plaintiff respectfully requests that this Court:

1. **GRANT** this motion to remand the action to Marion Superior Court,

2. **ORDER** that Defendant pay just costs and actual expenses incurred, including attorney's fees, under 28 U.S.C. § 1447(c), and

3. **STRIKE** or **dismiss** Coinbase's improper Notice of Removal as premature and jurisdictionally defective.

4. **ATTACHED EXHIBIT A-C LETTER FROM DEFENDANT COUNSEL NOTICE OF SERVICE ADMISSION RECEIVED FROM COINBASE INC. TO CFPB.**

Executed on this 20st day of June, 2025

Respectfully submitted,

//ss: **Elbert Coleman III**

Elbert Coleman III, *PRO SE*

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CERTIFICATE OF SERVICE

I hereby certify that I sent a copy of this **PLAINTIFF'S MOTION TO REMAND TO STATE COURT AND OBJECTION TO REMOVAL,** by mail and email to the opposing parties on this 20ᵗʰ day of June, 2025.

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Respectfully submitted,

//ss: Elbert Coleman III

Elbert Coleman III, *Pro Se*